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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,220	02/22/2002	Isabelle Rollat-Corvol		1821

7590

09/10/2003

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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 09/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,220

Applicant(s)

ROLLAT-CORVOL ET AL.

Examiner

Lakshmi S Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Receipt of preliminary amendment dated 2-22-02 and request for corrected filing receipt dated 7-3-02 is acknowledged.

Claim Rejections - 35 USC § 112

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Instant claims recite "relatively unpolymerized" which is vague because instant application provides no definition or description as what constitutes "relatively unpolymerized", i.e., 5% or 10% or 0.1% polymerization? What percentage is considered relatively unpolymerized? A clarification or correction is requested.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of US 4,344,763 (hereafter '763) in view of EP 464835 (EP 835) OR EP 159628 (EP 628) in view of EP 835.

US '763 teaches hair setting compositions containing aminoalkyloxysilane compounds to provide hold to the hair by forming a film on the hair upon application. The composition further

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contains titanate ester and isopropanol (col. 2). The aminosilicones of '763 contains hydrolysable alkoxy groups (col.2 and col. 3) such that upon hydrolysis the compounds are polymerized. '763 do not teach neutralizing agent of the instant claims.

EP 628 teaches hair-strengthening compositions containing alkyltrialkoxysilane compounds substituted with amino groups (pages 3-4). EP '628 teaches the presence of solvents such as ethanol, isopropanol (page 6) for stabilizing their composition containing silicone compounds. However, EP 628 fails to teach the neutralizing agent of the instant claims.

EP 835 teaches hair fixatives comprising pre-hydrolyzed organofunctional silanes as film forming agents for their improved water resistance, high hold and water compatibility, improved curl retention (page 3, lines 40-58). EP 835 suggests that when the silane compound has a positive charge, the anion may be a weak acid and when the compound is aminofunctional, it can be protonated or neutralized with a protonic acid or a Lewis acid, respectively (page 835). Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to employ an appropriate protonic or Lewis acid in the compositions of US '7363 or EP 628 so as to obtain a pre-hydrolyzed organosilicone in the compositions of US '763 and EP 682 because EP 835 teaches that the pre-hydrolyzed organosilicone compounds treated as above impart good curl retention, water compatibility and resistance and thus impart a good hold on the hair. While EP 835 fails to teach specific sulfuric acid or its salts and neutralization in the claimed ratios, using an appropriate Lewis acid or protonic acid would have been within the scope of a skilled artisan. Further, instant claim recites a neutralization of 0.001% to 99%, where 0.001% represents a negligible neutralization of the organosilicone. Accordingly, it appears that the neutralization step is not critical to the instant claims. Therefore, absent

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criticality with respect to the specific sulfuric acid, choosing an appropriate acid to hydrolyze the silicone of US '763 and EP 628 would have been obvious for a skilled artisan.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



Lakshmi S Channavajjala
Examiner
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September 6, 2003